
BILL REQUEST - CODE REVISER'S OFFICE

BILL REQ. #: Z-0171.1/05

ATTY/TYPIST: JM:ads

BRIEF DESCRIPTION: Modifying penalties assessed for untimely and incomplete unemployment compensation reports.

1 AN ACT Relating to penalties assessed for untimely and incomplete
2 reports for unemployment compensation; amending RCW 50.12.220;
3 prescribing penalties; and declaring an emergency.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 50.12.220 and 2004 c 97 s 1 are each amended to read
6 as follows:

7 (1)(a) If an employer fails to file ~~((in))~~ a timely ~~((and complete~~
8 ~~manner a))~~ report as required by RCW 50.12.070, ~~((or the rules adopted~~
9 ~~pursuant thereto, the employer shall be subject to a penalty to be~~
10 ~~determined by the commissioner, but not to exceed two hundred fifty~~
11 ~~dollars or ten percent of the quarterly contributions for each such~~
12 ~~offense, whichever is less))~~ the employer is subject to a penalty of
13 twenty-five dollars per violation, unless the penalty is waived by the
14 department.

15 (b) An employer who files an incomplete or incorrectly formatted
16 tax and wage report as required by RCW 50.12.070 shall receive a
17 warning letter for the first occurrence. For subsequent occurrences,
18 the employer is subject to a penalty as follows:

1 (i) When no contributions are due, the second occurrence is subject
2 to a seventy-five dollar penalty; the third occurrence is subject to a
3 one hundred fifty dollar penalty; and for the fourth occurrence and
4 thereafter, a penalty of two hundred fifty dollars will be assessed.

5 (ii) When contributions are due, the second occurrence is subject
6 to a penalty of ten percent of the quarterly contributions due, but not
7 less than seventy-five dollars; the third occurrence is subject to a
8 penalty of ten percent of the quarterly contributions due, but not less
9 than one hundred fifty dollars; and for the fourth occurrence and
10 thereafter, a penalty of two hundred fifty dollars will be assessed.

11 ~~((b))~~ (2) If an employer knowingly misrepresents to the
12 employment security department the amount of his or her payroll upon
13 which contributions under this title are based, the employer shall be
14 liable to the state for up to ten times the amount of the difference in
15 contributions paid, if any, and the amount the employer should have
16 paid and for the reasonable expenses of auditing his or her books and
17 collecting such sums. Such liability may be enforced in the name of
18 the department.

19 ~~((c))~~ (3) If any part of a delinquency for which an assessment is
20 made under this title is due to an intent to evade the successorship
21 provisions of RCW 50.29.062, then for the calendar year in which the
22 commissioner makes the determination under this subsection, the
23 commissioner shall assign to the employer, and to any business found to
24 be promoting the evasion of such provisions, the contribution rate
25 determined for that calendar year under RCW 50.29.025, including the
26 solvency surcharge, if any, for rate class 20 or rate class 40, as
27 applicable, plus two percent.

28 ~~((2))~~ (4) If contributions are not paid on the date on which they
29 are due and payable as prescribed by the commissioner, there shall be
30 assessed a penalty of five percent of the amount of the contributions
31 for the first month or part thereof of delinquency; there shall be
32 assessed a total penalty of ten percent of the amount of the
33 contributions for the second month or part thereof of delinquency; and
34 there shall be assessed a total penalty of twenty percent of the amount
35 of the contributions for the third month or part thereof of
36 delinquency. No penalty so added shall be less than ten dollars.
37 These penalties are in addition to the interest charges assessed under
38 RCW 50.24.040.

1 (~~(+3+)~~) (5) Penalties shall not accrue on contributions from an
2 estate in the hands of a receiver, executor, administrator, trustee in
3 bankruptcy, common law assignee, or other liquidating officer
4 subsequent to the date when such receiver, executor, administrator,
5 trustee in bankruptcy, common law assignee, or other liquidating
6 officer qualifies as such, but contributions accruing with respect to
7 employment of persons by a receiver, executor, administrator, trustee
8 in bankruptcy, common law assignee, or other liquidating officer shall
9 become due and shall be subject to penalties in the same manner as
10 contributions due from other employers.

11 (~~(+4+)~~) (6) Where adequate information has been furnished to the
12 department and the department has failed to act or has advised the
13 employer of no liability or inability to decide the issue, penalties
14 shall be waived by the commissioner. Penalties may also be waived for
15 good cause if the commissioner determines that the failure to timely
16 file reports or pay contributions was not due to the employer's fault.

17 (~~(+5+)~~) (7) Any decision to assess a penalty as provided by this
18 section shall be made by the chief administrative officer of the tax
19 branch or his or her designee.

20 (~~(+6+)~~) (8) Nothing in this section shall be construed to deny an
21 employer the right to appeal the assessment of any penalty. Such
22 appeal shall be made in the manner provided in RCW 50.32.030.

23 NEW SECTION. **Sec. 2.** This act is necessary for the immediate
24 preservation of the public peace, health, or safety, or support of the
25 state government and its existing public institutions, and takes effect
26 immediately.

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